

EXHIBIT 3



fairmarklaw.com L10 - RE: response

Rucha Desai <rucha@fairmarklaw.com>

RE: response

Rucha Desai <rucha@fairmarklaw.com>
To: Rucha Desai <rucha@fairmarklaw.com>

Wed, May 18, 2022 at 2:55 PM

From: Behnam Dayanim <bdayanim@paulhastings.com>
Date: Thursday, December 23 2021 at 12:05 PM EST
Subject: RE: response
To: Charlie Gerstein <charlie@gerstein-harrow.com>
Cc: Jason Harrow <jason@gerstein-harrow.com>, Kevin P. Broughel <kevinbroughel@paulhastings.com>, Andy LeGolvan <andylegolvan@paulhastings.com>, Jamie Crooks <jamie@fairmarklaw.com>

Thanks, Charlie, for your note.

To be clear: we don't believe there is a factual dispute. As set out in my letter yesterday, there can be no reasonable doubt that your client was presented with the ToS language when he returned to reconnect his wallet and make his deposit on October 21 (EDT). All that you have offered in return is unsupported assertion to the contrary – assertions that run counter to how the technology operates and that your own video "evidence" fails to support.

Indeed, you have it within your power to learn for yourself that what we say is correct – simply by having your investigator repeat precisely what your client did, in the same sequence, using the same wallet and device. I would hope you would take that step before persisting with this position.

Regardless, we look forward to your letter and will take the matter up with the Court, if necessary.

Best wishes,

Behn

Behnam Dayanim, Esq.

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From: Charlie Gerstein <charlie@gerstein-harrow.com>
Sent: Thursday, December 23, 2021 8:26 AM
To: Dayanim, Behnam <bdayanim@paulhastings.com>
Cc: Jason Harrow <jason@gerstein-harrow.com>; Broughel, Kevin P. <kevinbroughel@paulhastings.com>; LeGolvan, Andy <andylegolvan@paulhastings.com>; Jamie Crooks <jamie@fairmarklaw.com>
Subject: [EXT] Re: response

Behn,

We have your letter, and our letter to the court will at least note your position, with which we disagree. A couple points for now. Even the version of the facts in your letter offers no support whatever for you most-recent prior contention, that "terms are presented . . . including at the time of deposit or transfer." On your version, those terms are presented only when a user connects a wallet. You now contend that Kent did this again on October 21/22, but you offer no support that he would have seen terms anyway. It was only in response to that contention--now concededly without the least bit of factual basis--that we even mentioned sanctions, and we clearly did so only in the conditional. Regarding PoolTogether.com, we wrote only that Kent did not visit the site "to purchase tickets," which he did not (on your description or ours) do.

We hope that we can discuss a reasonable procedure for resolving the factual dispute that appears to underly our disagreement here. This goes without saying, but please preserve all records relating to the PoolTogether website.

-Charlie

Charlie Gerstein

Gerstein Harrow LLP

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Gerstein-Harrow.com

On Wed, Dec 22 2021 at 7:01 PM, Behnam Dayanim <bdayanim@paulhastings.com> wrote:

Charlie, Jason, please see the attached letter.

Best wishes,

Behn



Description:
Paul
Hastings
LLP

Behnam Dayanim, Esq.

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